

# HB0276



## 96TH GENERAL ASSEMBLY

### State of Illinois

2009 and 2010

HB0276

Introduced 1/23/2009, by Rep. John A. Fritchey

#### SYNOPSIS AS INTRODUCED:

5 ILCS 100/1-5

from Ch. 127, par. 1001-5

Amends the Illinois Administrative Procedure Act. Provides that, unless specified otherwise in the Act, a State agency subject to the Act is not exempt from adopting rules pursuant to the Act covering the agency's statements of general applicability with respect to law or policy affecting persons or entities outside the agency, including grant-making policy. Requires that all State agencies subject to the Act with grant-making authority must adopt rules governing the various aspects of the grant-making process. Effective immediately.

LRB096 01327 JAM 11335 b

A BILL FOR

1 AN ACT concerning government.

2 **Be it enacted by the People of the State of Illinois,**  
3 **represented in the General Assembly:**

4 Section 5. The Illinois Administrative Procedure Act is  
5 amended by changing Section 1-5 as follows:

6 (5 ILCS 100/1-5) (from Ch. 127, par. 1001-5)

7 Sec. 1-5. Applicability.

8 (a) This Act applies to every agency as defined in this  
9 Act. Beginning January 1, 1978, in case of conflict between the  
10 provisions of this Act and the Act creating or conferring power  
11 on an agency, this Act shall control. If, however, an agency  
12 (or its predecessor in the case of an agency that has been  
13 consolidated or reorganized) has existing procedures on July 1,  
14 1977, specifically for contested cases or licensing, those  
15 existing provisions control, except that this exception  
16 respecting contested cases and licensing does not apply if the  
17 Act creating or conferring power on the agency adopts by  
18 express reference the provisions of this Act. Where the Act  
19 creating or conferring power on an agency establishes  
20 administrative procedures not covered by this Act, those  
21 procedures shall remain in effect.

22 (a-5) For purposes of clarification only, no agency as  
23 defined in this Act is exempt from the requirement to adopt

1 rules covering agency statements of general applicability that  
2 implement, apply, interpret, or prescribe law or policy  
3 affecting persons or entities outside the agency in accordance  
4 with Article 5 of this Act unless the agency is granted a  
5 specific exemption from rulemaking under this Act. This  
6 rulemaking requirement applies to, in addition to all other  
7 agency policy affecting persons or entities outside the agency,  
8 grant-making policies. All agencies as defined in this Act that  
9 have grant-making authority shall adopt rules governing their  
10 procedures for soliciting applications for grants, awarding  
11 grants, recordkeeping and auditing requirements with respect  
12 to grants, disbursing grant funds, and other aspects of the  
13 grant-making process.

14 (b) The provisions of this Act do not apply to (i)  
15 preliminary hearings, investigations, or practices where no  
16 final determinations affecting State funding are made by the  
17 State Board of Education, (ii) legal opinions issued under  
18 Section 2-3.7 of the School Code, (iii) as to State colleges  
19 and universities, their disciplinary and grievance  
20 proceedings, academic irregularity and capricious grading  
21 proceedings, and admission standards and procedures, and (iv)  
22 the class specifications for positions and individual position  
23 descriptions prepared and maintained under the Personnel Code.  
24 Those class specifications shall, however, be made reasonably  
25 available to the public for inspection and copying. The  
26 provisions of this Act do not apply to hearings under Section

1 20 of the Uniform Disposition of Unclaimed Property Act.

2 (c) Section 5-35 of this Act relating to procedures for  
3 rulemaking does not apply to the following:

4 (1) Rules adopted by the Pollution Control Board that,  
5 in accordance with Section 7.2 of the Environmental  
6 Protection Act, are identical in substance to federal  
7 regulations or amendments to those regulations  
8 implementing the following: Sections 3001, 3002, 3003,  
9 3004, 3005, and 9003 of the Solid Waste Disposal Act;  
10 Section 105 of the Comprehensive Environmental Response,  
11 Compensation, and Liability Act of 1980; Sections 307(b),  
12 307(c), 307(d), 402(b)(8), and 402(b)(9) of the Federal  
13 Water Pollution Control Act; and Sections 1412(b),  
14 1414(c), 1417(a), 1421, and 1445(a) of the Safe Drinking  
15 Water Act.

16 (2) Rules adopted by the Pollution Control Board that  
17 establish or amend standards for the emission of  
18 hydrocarbons and carbon monoxide from gasoline powered  
19 motor vehicles subject to inspection under the Vehicle  
20 Emissions Inspection Law of 2005 or its predecessor laws .

21 (3) Procedural rules adopted by the Pollution Control  
22 Board governing requests for exceptions under Section 14.2  
23 of the Environmental Protection Act.

24 (4) The Pollution Control Board's grant, pursuant to an  
25 adjudicatory determination, of an adjusted standard for  
26 persons who can justify an adjustment consistent with

1 subsection (a) of Section 27 of the Environmental  
2 Protection Act.

3 (5) Rules adopted by the Pollution Control Board that  
4 are identical in substance to the regulations adopted by  
5 the Office of the State Fire Marshal under clause (ii) of  
6 paragraph (b) of subsection (3) of Section 2 of the  
7 Gasoline Storage Act.

8 (d) Pay rates established under Section 8a of the Personnel  
9 Code shall be amended or repealed pursuant to the process set  
10 forth in Section 5-50 within 30 days after it becomes necessary  
11 to do so due to a conflict between the rates and the terms of a  
12 collective bargaining agreement covering the compensation of  
13 an employee subject to that Code.

14 (e) Section 10-45 of this Act shall not apply to any  
15 hearing, proceeding, or investigation conducted under Section  
16 13-515 of the Public Utilities Act.

17 (f) Article 10 of this Act does not apply to any hearing,  
18 proceeding, or investigation conducted by the State Council for  
19 the State of Illinois created under Section 3-3-11.05 of the  
20 Unified Code of Corrections or by the Interstate Commission for  
21 Adult Offender Supervision created under the Interstate  
22 Compact for Adult Offender Supervision or by the Interstate  
23 Commission for Juveniles created under the Interstate Compact  
24 for Juveniles.

25 (g) This Act is subject to the provisions of Article XXI of  
26 the Public Utilities Act. To the extent that any provision of

1 this Act conflicts with the provisions of that Article XXI, the  
2 provisions of that Article XXI control.

3 (Source: P.A. 95-9, eff. 6-30-07; 95-331, eff. 8-21-07; 95-937,  
4 eff. 8-26-08.)

5 Section 99. Effective date. This Act takes effect upon  
6 becoming law.